

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lianne May	Team: Squad #7	CCRB Case #: 202104637	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 07/26/2021 2:21 AM, Monday, 07/26/2021 2:36 AM	Location of Incident: Front of 360 West 34th Street	Precinct: 14	18 Mo. SOL 1/26/2023	EO SOL 1/26/2023	
Date/Time CV Reported Thu, 08/05/2021 3:12 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 08/05/2021 3:12 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Pronab Adhikary	24176	968918	MTS PCT
2. Officers			MTS PCT
3. POM Inner Mata	11543	951974	MTS PCT
4. POM Matthew Hunker	09176	963576	MTS PCT
5. POM Michael Lynch	12999	969923	MTS PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Maxim Maloshag	01317	956058	MTS PCT
2. POM Zachary Ahearn	06554	968211	MTS PCT
3. POM David Hervey	30919	965187	MTS PCT
4. POF Brittany Lormel	24755	955095	MTS PCT
5. POM Nicolas Morris	04054	964669	MTS PCT
6. POM Lavone Simpsononeal	09893	955496	MTS PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Pronab Adhikary	Discourtesy: Police Officer Pronab Adhikary spoke discourteously to § 87(2)(b)	
B.POM Pronab Adhikary	Force: Police Officer Pronab Adhikary used physical force against § 87(2)(b)	
C.POM Michael Lynch	Force: Police Officer Michael Lynch used physical force against § 87(2)(b)	
D.POM Inner Mata	Force: Police Officer Inner Mata used physical force against § 87(2)(b)	
E.POM Matthew Hunker	Force: Police Officer Matthew Hunker used physical force against § 87(2)(b)	
F. Officers	Abuse: Officers searched § 87(2)(b)'s bag	
G.POM Pronab Adhikary	Force: Police Officer Pronab Adhikary used physical force against § 87(2)(b)	

### Case Summary

On August 5, 2021, § 87(2)(b) filed the following complaint through the CCRB processing system regarding an incident in which she and her friend, § 87(2)(b) were arrested (BR1). CCRB Case 202104630 (BR2), in which Sergeant Brendan Coughlin of the 14 Precinct reported a use of force against § 87(2)(b) was noted as a duplicate and the allegations are investigated in this case.

On July 26, 2021, § 87(2)(b) and § 87(2)(b) were walking around West 34<sup>th</sup> Street and 9<sup>th</sup> Avenue in Manhattan when they began a dispute with a delivery truck worker, § 87(2)(b). Officers responded to § 87(2)(b) 911 call reporting that § 87(2)(b) and § 87(2)(b) robbed him with knives. After § 87(2)(b) rode in a marked SUV with Police Officer Pronab Adhikary of the 14 Precinct and pointed out § 87(2)(b) officers began to chase him. PO Adhikary yelled at § 87(2)(b) to put his “fucking hands up” and “get on the fucking ground” as § 87(2)(b) fled the officers (**Allegation A: Discourtesy**, § 87(2)(g)). PO Adhikary, Police Officer Michael Lynch, Police Officer Inner Mata, and Police Officer Matthew Hunker, all of the 14 Precinct, forcibly took down and handcuffed § 87(2)(b) to be arrested (**Allegations B-E: Force**, § 87(2)(g)). § 87(2)(b) then alleged that officers searched her bag (**Allegation F: Abuse of Authority**, § 87(2)(g)) before PO Adhikary used force to slam her to the ground and arrest her (**Allegation G: Abuse of Authority**, § 87(2)(g)).

The investigation received 15 body-worn camera (BWC) videos (BR3).

### Findings and Recommendations

**Allegation A- Discourtesy: Police Officer Pronab Adhikary spoke discourteously to § 87(2)(b).**

**Allegation B- Force: Police Officer Pronab Adhikary used physical force against § 87(2)(b).**

**Allegation C- Force: Police Officer Michael Lynch used physical force against § 87(2)(b).**

**Allegation D- Force: Police Officer Inner Mata used physical force against § 87(2)(b).**

**Allegation E-Force: Police Officer Matthew Hunker used physical force against § 87(2)(b).**

**Allegation F- Abuse of Authority: Officers searched § 87(2)(b)'s bag**

**Allegation G- Force: Police Officer Pronab Adhikary used physical force against § 87(2)(b).**

§ 87(2)(b) explained to the CCRB that on July 26, 2021, at 2AM at the corner of West 34<sup>th</sup> Street and 9<sup>th</sup> Avenue in Manhattan, she and her friend, § 87(2)(b) got into an argument with a man delivering fruit. The investigation identified this man as § 87(2)(b). § 87(2)(b) made sexual comments to § 87(2)(b) by telling her she was pretty and then offering her strawberries, which she took. § 87(2)(b) and the delivery man began to argue. § 87(2)(b) told both men to stop arguing. After about three minutes, § 87(2)(b) told § 87(2)(b) to leave so she began to walk away. As she walked away, PO Adhikary approached her on foot with seven other male officers and said they got a call from the delivery man that § 87(2)(b) had a knife. § 87(2)(b) told him that neither of them had a knife (BR4).

§ 87(2)(b) alleged that officers she could not describe then turned her purse upside down to see if she had a knife. She did not have one, so no knife came out. PO Adhikary never said anything else to her but then began to allegedly slam her to the ground with four other officers, so her jaw hit the ground and she started bleeding. § 87(2)(b) was telling them to stop using force, but then had an asthma attack and could not say anything more. She was on the ground for ten minutes. An unknown officer handcuffed her (BR4).

§ 87(2)(b) alleged that while the officers were on top of her handcuffing her, 20 officers were using their arms and legs to also beat and handcuff § 87(2)(b). When she left the location and officers took her to the stationhouse, § 87(2)(b) was allegedly still on the ground being beaten and she has not seen or talked to him since then (BR4).

The IAB log provided no contact information for § 87(2)(b) but the arrest report provided an address and phone number. The phone number was out of service. § 87(2)(b) provided the investigation with a phone number for § 87(2)(b) and a CLEAR search confirmed the number she provided and the address on the arrest report. From August 13, 2021 to September 8, 2021, the investigation called five times but could not leave a voicemail as the phone was not set up yet. § 87(2)(b) is not incarcerated (BR2).

The investigator called § 87(2)(b) five times. § 87(2)(b) never responded to any contact attempts.

In PO Lynch's BWC from 1:30-3:12 (BR5), PO Lynch talks to § 87(2)(b) who tells officers that a male and female pulled a knife on him. § 87(2)(b) then drives with them to help identify the male and female.

In PO Adhikary's BWC from 01:00-2:00 (BR6), PO Adhikary asks § 87(2)(b) in his car who pulled a knife on him. He states it was one woman and one man. PO Adhikary asks, "those two over there?" and § 87(2)(b) confirms this. PO Adhikary gets out of the car and then confirms with § 87(2)(b) again who the male is. PO Adhikary and other officers begin to chase § 87(2)(b). PO Adhikary gives him repeated commands to stop, which § 87(2)(b) does not do. PO Adhikary then states to "put your fucking hands up" and "get on the fucking ground." § 87(2)(b) is not in this video.

In Sgt. Maloshag's BWC from 00:26-04:08 (BR7), officers run after a fleeing § 87(2)(b) and PO Mata tackles him by jumping on top of him. Sgt. Maloshag tells officers to handcuff him. They handcuff him and have him sit up on the ground immediately after handcuffing him. The officers search him while sitting on the ground. Other officers investigate that a cab driver alleged that he threw a knife in the car. Sgt. Maloshag radios that they are at 408 West 34<sup>th</sup> Street and requests a cage car. When § 87(2)(b) complains of pain, PO Adhikary assures him they will call EMS to the stationhouse to provide him with medical attention. § 87(2)(b) is not in this video.

In PO Hunker's BWC from 1:50-2:48 (BR8), PO Hunker also participates in chasing § 87(2)(b). PO Hunker then leaves the scene and at 6:41-24:25, he and PO Ahearn walk up to § 87(2)(b) who is alone at 330 West 34<sup>th</sup> Street. She has bags on her shoulders and puts her arms out. PO Hunker takes the bags off her shoulder and tells her to put her hands behind her back. She does not resist, and officers use no force. PO Hunker holds onto her and she tells officers there is no knife in her bags. PO Hunker moves the bags to the side. She tells the officers that § 87(2)(b) is her boyfriend. PO Hunker stands holding onto § 87(2)(b)'s handcuffs while PO Ahearn radios and requests a car. PO Hunker gets in the car with § 87(2)(b). This BWC shows all the police encounters on the street with § 87(2)(b) and no force was used.

The Threat, Resistance, and Injury Report TINC – § 87(2)(b) states that PO Adhikary, PO Hunker, and PO Lynch, and PO Mata used force to take down § 87(2)(b) as a robbery suspect while he was resisting (BR9).

§ 87(2)(b) was arrested under Arrest # § 87(2)(b) and § 87(2)(b) was arrested under Arrest # § 87(2)(b) both for § 87(2)(b) (BR10; BR11).

In DCT Case #79627/04, NYPD Disciplinary decisions have consistently concluded that when an officer uses an impolite word during a street encounter where that officer is attempting to maintain control of the situation, the police officer's verbal slip does not rise to the level of actionable misconduct (BR12).

The NYPD Patrol Guide section 221-01 entitled "Force Guidelines" explains that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect or when it is reasonable to prevent escape from custody. In all circumstances, an application of force must be reasonable under the circumstances. The Patrol Guide goes on to state that the reasonableness of the use of force is based upon the totality of the circumstances known by the MOS at the time of the use of force. When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use in situations in which this is not safe and/or appropriate, MOS will use only the reasonable force necessary to gain control or custody of a subject (BR13).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) alleged that when apprehended, officers searched her bag and then used force against her by slamming her to the ground next to § 87(2)(b). However, as per BWC and the arrest reports, § 87(2)(b) was apprehended before and at a different location, § 87(2)(g). BWC shows that PO Ahearn and PO Hunker do not search any bags and only take her bags off her shoulder. PO Adhikary was not present for her apprehension at all. PO Hunker calmly handcuffed a compliant § 87(2)(b) § 87(2)(g). PO Hunker then rides with § 87(2)(b) to the stationhouse § 87(2)(g).

#### **Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) has been named a victim (BR14)
- § 87(2)(b) has been party to of seven CCRB complaints and has been named as a victim in 21 of allegations (BR15).
  - § 87(2)(b)
  -

- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]
- Police Officer Pronab Adhikary has been a member of service for one year and has been a subject in one CCRB complaint and one allegation, none of which were substantiated. § 87(2)(g) [REDACTED]
- Police Officer Inner Mata has been a member of service for nine years and has been subject in five CCRB complaints and seven allegations none of which were substantiated. § 87(2)(g) [REDACTED]
- Police Officer Matthew Hunker has been a member of service for four years § 87(2)(b) [REDACTED] § 87(2)(g) [REDACTED]
- Police Officer Michael Lynch has been a member-of-service for less than one year and this is the first CCRB complaint to which he has been a subject (BR19).

#### **Mediation, Civil, and Criminal Histories**

- As of October 14, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (BR20).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]

Squad: \_\_\_\_7\_\_\_\_

Investigator: <u>Lianne May</u>	Investigator <u>Lianne May</u>	Date <u>October 15, 2021</u>
Signature	Print Title & Name Manager Vanessa Rosen	Date October 18, 2021
Squad Leader: _____	_____	_____
Signature	Print Title & Name	Date
Reviewer: _____	_____	_____
Signature	Print Title & Name	Date